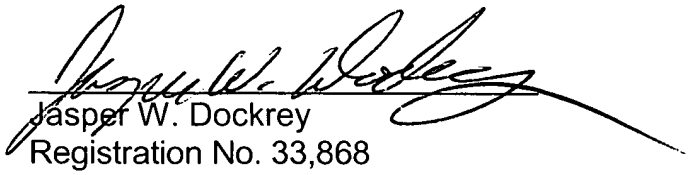
REMARKS

The applicants assert that restriction in the instant application is improper at least because the Office Action has not even alleged proper grounds to demonstrate that the claims divided into Groups I and II are distinct. In support of the restriction requirement it is alleged that MPEP §806.05(f) provides that the claims are distinct, since the device could be made by a different process, such as by a hypothetical process step. (Office Action, page 2) There is, however, no explanation that one skilled in the art would provide such a process and how the process would function. Accordingly, the alleged distinction does not even relate to a difference between the claims of Groups I and II.

The applicants further note that reliance on the MPEP is justified only to the extent that it is not in conflict with regulations and official interpretation of statutes. *Litton Systems, Inc. v. Whirlpool Corp.*, 221 U.S.P.Q. 97, 107 (Fed. Cir. 1984). The Code of Federal Regulations conditions a restriction requirement on the presence of two or more independent *and* distinct inventions. 37 C.F.R. § 1.142. Section 806.05(f) of the MPEP, however, only addresses one aspect of the basis for a restriction requirement. Accordingly, the applicants respectfully assert that, since the MPEP is in direct conflict with 37 CFR § 1.142, it is not authoritative regarding the appropriateness of the instant restriction requirement.

Respectfully submitted,



Jasper W. Dockrey
Registration No. 33,868
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200